

From F. & J. Sullivan
MORSE (V)

THE RENEWAL OF PRESCRIPTIONS.

PROCEEDINGS

OF THE

Bind. Conv.
in front,

East River and other Medical Societies,

AND

A P A P E R

BY

VERRANUS MORSE, M.D.

WITH AN APPENDIX.

NEW YORK:

PUBLISHED BY THE EAST RIVER MEDICAL ASSOCIATION,

57 ESSEX STREET.

1869.

Leeson Library
429706

THE RENEWAL OF PRESCRIPTIONS.

PROCEEDINGS

OF THE

East River and other Medical Societies,

AND

A PAPER

BY

VERRANUS MORSE, M.D.

WITH AN APPENDIX.

NEW YORK:

PUBLISHED BY THE EAST RIVER MEDICAL ASSOCIATION,
57 ESSEX STREET.

1869.

PROCEEDINGS.

AT a regular meeting of "THE EAST RIVER MEDICAL ASSOCIATION OF THE CITY OF NEW YORK," June 4, 1867, Dr. R. J. O'Sullivan called the attention of the Association to the evils resulting from the unauthorized practice of renewing physicians' prescriptions.

The subject was freely discussed, and a committee was appointed to consider what action might be deemed advisable.

At the next meeting, July 2, 1867, the committee reported the following resolutions:—

Whereas, The attention of this Association has been called to the repetition of prescriptions, containing active ingredients, by apothecaries, without the written order of physicians; and

Whereas, Serious consequences to patients are liable to ensue; therefore

Resolved, That we respectfully request the apothecaries of this city not to repeat such prescriptions without the authority of the physicians by whom they were written, they being the only competent judges of the propriety or necessity of such renewal.

These resolutions were adopted and ordered to be printed, and the committee was authorized to place them

in the hands of the apothecaries of the city, and also to consult with the apothecaries in order to secure unity of action.

At the meeting, August 6, 1867, the committee reported that the resolutions had been printed and distributed, and that a very large majority of the apothecaries expressed a willingness to co-operate with the physicians in the course of action recommended by the Association, if their individual interests could be protected by the universal adoption of the recommendation.

September 3, 1867. It was voted to lay the action of the Association before the American Pharmaceutical Association, to meet in New York on the 10th instant.

December 3, 1867. The Association directed the Secretary to forward a copy of the proceedings in relation to physicians' prescriptions to the Constitutional Convention, then in session.

March 3, 1868. A communication was received from Dr. V. H. Taliafero, Secretary of the Medical Society of Columbus, Ga., stating that the society had framed resolutions similar in import to those of the East River Association, and asking for correspondence.

At the regular meeting, October 6, 1868, a communication was received from the Secretary of the American Pharmaceutical Association, together with a series of resolutions passed by the Association at its recent meeting in Philadelphia. After the resolutions were read and considered, it was resolved that, in order to protect the interests of all, the New York State Medical Society be requested to ask the Legislature to pass an act making it a penal offence to renew medicine, without the authority of the physician prescribing it. At the same meeting a committee was appointed—Prof. F. D. Weisse,

M.D., Chairman—to correspond with foreign societies with reference to the progress of the question in other countries.

DECEMBER 2, 1867. The Medical Society of the County of New York adopted resolutions condemning unauthorized renewals of medicine, and instructed the Secretary to notify the apothecaries of the county of this action.

THE New York Academy of Medicine, at a regular meeting, April 1, 1868, endorsed the resolutions of the County Society, and referred them to the State Society.

AT the annual meeting of the Medical Society of the State of New York, February 2, 1869, the President, Prof. J. V. P. Quackenbush, M.D., of Albany, in his address, recommended that the Legislature be requested to enact a law to prevent the repetition of medicine, without the authority of the physician prescribing it.

MANY other societies have adopted measures similar to those already mentioned.

THE REFILLING
OF
PHYSICIANS' PRESCRIPTIONS.

BY VERRANUS MORSE, M.D.

[*A paper read before THE EAST RIVER MEDICAL ASSOCIATION, Sept. 7, 1869, and published in "The Medical Record," Oct. 15, 1869.]*

A PRESCRIPTION, when sent to the apothecary, becomes an order for medicine, and we may use the word *fill* in connection with it, as we do with orders for merchandise; and by using *refill* instead of *renew*, we can avoid the necessity of employing the term *prescription* to designate at one time the written formula by which the medicine ordered is to be prepared, at another the medicine itself, and again both the medicine and the manuscript at the same time.

In the common sentence, "The renewal of physicians' prescriptions," the single word *prescriptions* is compelled to do double service; it signifies not only the medicine renewed, but also the formula for preparing it. Guided by its classical derivation, I shall employ it in the latter sense only.

With these preliminary explanations, I will proceed briefly to consider four questions which seem to embrace the whole subject under consideration.

1st. Who is the owner of a written prescription after it is once filled?

2d. Has any one a right to refill a written prescription?

3d. Who are injured by such refilling?

4th. What makes a law to prevent refilling necessary?

Who, then, is the rightful owner of a prescription after it has been placed in the hands of the apothecary, and the patient for whom it was written has received the prescribed medicine?

A prescription is designed—not to conceal a secret, but to inform the apothecary what medicine the physician wishes the patient to receive, and by what formula he wishes it to be prepared. It is an order for a definite quantity of medicine, prepared in a certain manner.

The physician is under no legal obligations to write a prescription; he may prepare the medicine himself, or he may give the apothecary verbal directions for its preparation; or, if he chooses to write a prescription, he is under no obligations to give it to the patient; he may send it to the drug-store himself, and direct the patient to send there for the medicine.

To relieve himself from the necessity of keeping and preparing medicine, or of going or sending to the drug-store whenever he wishes to prescribe, he writes a prescription, and the same messenger takes it to the apothecary that goes to the drug-store for the medicine.

If the physician puts the directions for using the medicine on the prescription, he orders the apothecary imperatively—*signa*—to write them out to accompany the

medicine, which would be unnecessary if the patient could retain the prescription.

The physician charges no more for advice when he writes a prescription, than he does when he furnishes the medicine.

It is evident, then, that the patient buys the physician's advice only, which advice is utilized and made efficient—if it is made efficient at all—by the medicine, and not by the written prescription. The manuscript is merely a circumstance—a matter of convenience to the physician.

When the patient has once obtained the medicine ordered, whether by a written prescription or otherwise, he has received all that the fee he pays entitles him to, and all the medicine that prudence permits him to use without further advice from his physician.

Neither does the apothecary buy the prescription; he simply sells the medicine prescribed, charging the same whether he receives a written prescription or not—he is only the custodian of the prescription until its owner may call for it.

Plainly, then, the prescription, after it is once filled, belongs to the physician who wrote it, just as a check which he writes belongs to him after his banker has once cashed it.

Has any one a right to refill, or to order another to refill, a written prescription?

If a patient, by consulting his physician once, could obtain and was willing to pay for a prescription for medicine that would meet all the indications of his disease, however long it might continue, and all the indications of all apparently similar diseases, which he or his friends or neighbors might be afflicted with in the future, he would be justified in asking for a renewal of his medicine,—a

refilling of his prescription. And he could afford to pay well for such a prescription, for it would virtually constitute him a physician, with the particular variety of disease prescribed for as his specialty; and the physician selling a prescription designed for such use would expect to be well paid, since he would forfeit his professional standing by such sale, as it would be equivalent to dealing in proprietary medicine, or a formula for it. But no patient pays for any such prescription, or any prescription at all; and no patient can obtain any such prescription, since all diseases are liable to frequent changes, either from their own natural progress, or from the modifying influence of the medicines used; and every change in the character of a disease requires a corresponding variation in the treatment; and the same skill is needed to adjust the variations that was necessary to devise the original treatment.

A patient, then, has no right to order a prescription to be refilled, copied, or returned, because it is not his property, and it would not be judicious for him to have it refilled, even if it was his, without consulting his physician.

The apothecary has no right to refill a prescription on his own account, as he is in no sense the owner of it; he has no more right to refill it than a bank has to recash a check.

The physician has no moral right to order a prescription to be refilled, because by so doing he increases the chances—none too small before—for mistakes to occur. After prescriptions are filled, they are usually pasted or copied into a book, several on a page, and the apothecary refilling one has all of these before him, instead of one separate and recently written; and the figures on old

labels often become soiled, or in some way partially obliterated, or they may be copied incorrectly at first, so that the apothecary is in danger of refilling the wrong prescription. Besides, by carelessly ordering his prescriptions to be refilled again and again, for different members of the same family, a physician is liable to create the impression among his patients, that success depends more on a few lucky prescriptions than it does on knowledge and skill ; and this impression opens a wide door for patent nostrums and empiricism, and thus ruins the health of multitudes, and destroys the lives of many.

If the physician thinks the same prescription is needed again, he can very readily rewrite it; if he orders it refilled, it is only because he thinks it is easier for him ; but he is employed to do what is best, not merely what is easiest ; he cannot reissue an old check to avoid the trouble of writing a new one. If, then, the physician who owns the prescription has no right to refill it, certainly the apothecary and the patient, who do not own it, can have no such right.

Who are liable to be injured by the practice of refilling prescriptions ?

A physician prescribing for a patient selects such medicine as he thinks needed at the time ; but the medicine that is useful at one stage of a disease, may be useless or even injurious at another, and, by the prolonged use of medicine that was needed at first, but inappropriate afterwards, the disease may pass the period when it might have been readily controlled, and reach a stage where it will require weeks of attendance, and will perhaps result in death.

The continued use of the same medicine, obtained by repeated renewals without the physician's knowledge,

reduces the treatment of the most skilful practitioner to a level with that of the merest pretender, who has but one medicine for a disease in all its varieties and complications; and the patient who attempts to save money by such means, does it at the risk of time, money, health, and life.

The physician may lose a few visits, in some cases, by this practice, but he is more than compensated for these by the increased attendance made necessary by it in others. But he is seriously harmed by the loss of patients by death, and the loss of families through loss of confidence resulting from injudicious renewals of medicine, for which he is unjustly held responsible. The renewals that diminish his income are those that sacrifice the lives of his patients; the severest blow that falls on him is but the rebound of a still heavier one that has already fallen on them.

The apothecary is benefited during the patient's lifetime, because he will take much more medicine than he would with proper advice; but this is more than counterbalanced by the premature death of the patient, and the consequent loss of his patronage.

If, then, patient, physician, and apothecary all are injured by such a practice, it is evident that it should be discontinued. But why is a law needed to put a stop to it? Why will not the injured parties themselves stop it without a prohibitory law? Because, for the time, each believes he is benefited by the renewal.

The physician orders a prescription to be refilled, to save the trouble of rewriting it, and, too often, to save the trouble of examining the patient.

The patient orders it refilled to get his medicine and avoid the physician's fee.

And the apothecary refills it, to secure the sale of the medicine.

A law, then, is needed to restrain the parties that are injuring themselves and each other, under the impression that they are benefiting themselves, and it is needed in order that the practice may cease immediately and universally.

And this law should require a prescription to embrace, besides the formula for the medicine, directions for its use, the patient's name, the date, and the name of the physician; and it should require the apothecary filling it to date and sign it, and to preserve it as long as the law makes a physician liable for a suit of malpractice in any case.

A prescription would then be important documentary evidence, retained in the hands of a third party. At the expiration of this time it should be destroyed, or returned to the physician, if he requests it.

A P P E N D I X.

LEGAL OPINIONS.

"*The Medical and Surgical Reporter*," of Philadelphia, Pa., Jan. 4, 1868,
contains the following correspondence:

NEW YORK, Sept. 25, 1867.

JOHN H. HARNETT, Esq.

Dear Sir—I enclose you a copy of the resolutions recently passed by the East River Medical Association, relative to the practice of apothecaries' renewing the prescriptions of physicians without their written order, which resolutions have been duly transmitted to every apothecary in our district, for their immediate action. You will please send me immediately a *legal opinion* on this subject, stating explicitly whether physicians have the right of property in the prescriptions given by them to their patients. Further, to what extent, if any, apothecaries are bound to respect legally the instructions of physicians on the subject.

I am, etc., etc.,

R. J. O'SULLIVAN, M.D.

NEW YORK, Sept. 28, 1867.

R. J. O'SULLIVAN, M.D.

Dear Sir—In answer to your inquiry, “Have physicians a right of property in the prescriptions given by them to their patients?” I state, first, the prescription is a direction from the physician to some apothecary to put up for, and prepare for the patient’s use, a certain medicine. When the apothecary performs this act, and files away the prescription, he has no right to again put up or prepare medicine from that prescription, unless he do so by the orders of the physician who originally gave it. He has no more right to do so than a merchant would have to deliver, on a written order for one barrel of flour, sundry barrels after the one called for had been delivered.

A more important feature is, however, involved in the matter of physicians’ prescriptions being duplicated by an apothecary without the physician’s authority or instruction, which is, that the medicine so duplicated may be entirely unsuited to the patient’s changed condition of health, of which the apothecary has no opportunity of knowing. No one is capable of judging in such matters but the attending physician. The apothecary who duplicates a physician’s prescriptions without the physician’s orders commits a crime against society, inasmuch as he permits medicine to leave his store which may cause the death of the person to whom it is administered.

Second. Medical societies have a right—and, indeed, I think it is a duty which they should attend to—to prescribe and establish a rule for the government of apothecaries in such matters, which, no doubt, apothecaries would cheerfully observe. This would save the medical profession from many charges of malpractice, and many

persons from the injuries resulting from the continued use of a medicine not advised or prescribed by a physician.

I am, dear sir, etc.,

JOHN H. HARNETT,
Attorney and Counsellor at Law.

JOHN ORDRONAUX, M.D., LL.B., *Prof. of Med. Jurisprudence in Columbia Coll., N. Y., Dart. Med. Coll., N. H., University of Vt., The National Med. Coll., and the Law School of Columbia Coll., D. C.*

In an article on the repetition of prescriptions—published in *The Medical Record*, August 15, 1868—says: ". . . The subject has been largely discussed in England, and in our own Academy of Medicine has given occasion to the passage of some very significant resolutions. But, as something more than resolutions is needed to give a definite solution to the question," he adds, ". . . I would recommend that our State Medical Society request of the next Legislature the passage of some such *act* as the following, viz.:

"*Be it enacted, &c. &c. :—*

"1. No apothecary, druggist, or retailer of medicines, shall compound any written prescription, unless it be signed with the full name and address of the person writing the same, under a penalty of — dollars for each and every violation of this prohibition.

"2. Every apothecary, druggist, or retailer of medicines, who shall compound any written prescription, shall, immediately thereafter, and on the same day, write or stamp on said prescription, in legible characters, the date of such compounding, together with his own name and place

of business, under a penalty of —— dollars for each and every omission so to do.

“3. Any apothecary, druggist, or retailer of medicines, who shall compound a written prescription, bearing upon its face the certificate of an apothecary showing the same to have been already compounded, and without a renewal of said prescription by the person originally writing the same, duly expressed by a fresh signature and date, shall be chargeable with a misdemeanor, and, on conviction thereof, shall be subject to a fine of fifty dollars for each and every offence so committed.

“4. All fines and penalties incurred under this act, may be recovered in a justice’s court, one-half to go to the informer, and one-half to the overseers of the poor of the county in which such conviction shall be had.”

